

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3324 of 2008

and

M.P.No.1 of 2008

The Managing Director,
Tamilnadu State Transport Limited,
Bharathipuram, Salem Main Road,
Dharmapuri. ... Appellant/Respondent

Vs.

Ellappa ... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 16.03.2007 made in M.C.O.P.No.309 of 2005 on the file of the Motor Accident Claims Tribunal, Sub-Court, Hosur.

For Appellant : Mr.S.V.Vasantha Kumar

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the award dated 16.03.2007 made in M.C.O.P.No.309 of 2005 on the file of the Motor Accident Claims Tribunal, Sub-Court, Hosur.

2.The facts of the case are that on 29.07.2005 at about 10.00a.m., the respondent herein was riding his bicycle on the Hosur - Bathalapalli NH Road. When he reached near Priya Weigh Bridge, the appellant's bus bearing Reg.No.TN-29-N-0818 came in a rash and negligent manner and dashed against the bicycle. Due to the said impact, the respondent sustained grievous injuries. The respondent filed a claim petition before the Tribunal claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him. Considering the materials and evidence available on record, the Tribunal held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation and has awarded a total compensation of Rs.1,06,000/- with interest at the rate of 9% per annum from the date of petition.

3.Challenging the same, the appellant Transport Corporation has come up with this appeal.

4.The learned counsel appearing for the appellant-Transport Corporation has submitted that the Tribunal has erred in fastening the liability on the appellant Transport Corporation. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.Though this appeal was admitted way back in the year 2008, the appellant has not taken proper steps to serve papers on the other side, even at this length of time. However, due to efflux of time, this Court is inclined to dispose of this appeal on merits.

6.Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

7.The respondent herein has been examined as P.W.1 before the Tribunal. He deposed that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant-Transport Corporation. Ex.P1/F.I.R was also registered against the driver of the appellant's bus. The conductor of the bus was examined as R.W.1 who deposed that the accident had occurred only due to the negligence on the part of the respondent. However, no documentary evidence was adduced to substantiate his stand. Taking note of the materials and evidence available on record, the Tribunal, by giving valid reasons, held that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant-Transport Corporation, which finding this Court is not inclined to interfere.

8.With regard to the quantum of compensation, the Tribunal has awarded a sum of Rs.40,000/- towards pain and suffering due to injuries, Rs.30,000/- towards disability, Rs.20,000/- towards loss of earning capacity, Rs.11,000/- towards medical expenses and Rs.5,000/- towards extra nourishment and transport expenses. The amounts awarded by the Tribunal towards these heads are reasonable and hence the same are confirmed.

9.In the result, this Civil Miscellaneous Appeal is dismissed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, as ordered by the Tribunal, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondent is permitted to withdraw the same, on making proper application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO MDU)

Sub Assistant Registrar

//True copy//

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To

1.The Sub-Judge, Motor Accident Claims Tribunal, Hosur.

2.The Section Officer, VR Section,
High Court, Madras.

C.M.A.No.3324 of 2008
and
M.P.No.1 of 2008

NMI (CO)
GMY (18/08/2020)



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